

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVO NORDISK A/S,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-645-SLR
	)	
SANOFI-AVENTIS, AVENTIS	)	
PHARMACEUTICALS INC., and AVENTIS	)	
PHARMA DEUTSCHLAND GMBH,	)	
	)	
Defendants.	)	

**DEFENDANTS' AMENDED UNOPPOSED MOTION TO ISSUE LETTERS  
OF REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE**

Defendants sanofi-aventis, Aventis Pharmaceuticals Inc., and Sanofi-Aventis Deutschland GmbH<sup>1</sup>, by its undersigned counsel, hereby respectfully move the Court to issue the attached Order and Letters of Request for International Judicial Assistance (attached hereto as Exhibits 1-4) to enable Defendants to take the depositions of four witnesses residing in Denmark, pursuant to Fed. R. Civ. P. 28(b). In compliance with D. Del. L.R. 7.1.1, Defendants have met and conferred with Plaintiff regarding this motion. Plaintiff has indicated that while it does not intend to oppose this motion, Plaintiff denies the assertions set forth in support of Defendants' motion and reserves all rights to object to the depositions, or the testimony provided during the depositions, under any and all legal authority, domestic or international, including, but not limited to, the scope of the testimony sought as indicated in the attached Letters of Request.

<sup>1</sup> While the Complaint names Aventis Pharma Deutschland GmbH, this entity is now known as sanofi-aventis Deutschland GmbH. Accordingly, this current title will be used in this motion.

## **I. Background**

Plaintiff filed this lawsuit alleging infringement of United States Patent No. 6,582,408 (the “‘408 patent”). Defendants deny infringing the ‘408 patent and assert, among their affirmative defenses and counterclaims, that the ‘408 patent is invalid and unenforceable. Among the grounds of invalidity, Defendants assert that the invention claimed in the ‘408 patent is anticipated or would have been obvious to one of ordinary skill in the art at the time the patent application that issued as the ‘408 patent was filed. As grounds of unenforceability, Defendants assert that Plaintiff committed inequitable conduct during prosecution of the patent application that issued as the ‘408 patent. Plaintiff disputes these assertions and maintains that the ‘408 patent is valid and enforceable.

In support of their invalidity and unenforceability defenses and counterclaims, Defendants intend to offer at trial evidence of the invalidity and unenforceability of the ‘408 patent. This evidence includes evidence of the scope and content of the prior art, the level of ordinary skill in the art, and the differences between the invention claimed in the ‘408 patent and the prior art. In addition, this evidence includes evidence of the materiality and non-cumulative nature of the prior art withheld from the Patent Office, as well as evidence of the Plaintiff’s intent to deceive the Patent Office. As explained below, Defendants have reason to believe that the four witnesses named in the attached Letters of Request for International Judicial Assistance, each of whom either is a named inventor on the ‘408 patent or was substantively involved in the prosecution of the patent application that issued as the ‘408 patent, have evidence or information relating to Defendants’ invalidity and unenforceability defenses and counterclaims. Therefore, a just disposition of this case requires the discovery of testimony from the four witnesses named in the attached Letters of Request.

## II. Standard of Review

A party seeking the application of the Hague Evidence Convention procedures rather than the Federal Rules of Civil Procedure bears the burden of persuading the trial court of the necessity of proceeding pursuant to the Hague Evidence Convention. *Tulip Computers Int'l B.V. v. Dell Computer Corp.*, 254 F.Supp.2d 469, 474 (D. Del. 2003). As this Court has recognized, “that burden is not great, however, since the ‘Convention procedures are available whenever they will facilitate the gathering of evidence by the means authorized in the Convention.’” *Id.* (quoting *Societe Nationale Industrielle Aerospatiale v. United States District Court for the District of Iowa*, 482 U.S. 522, 538 (1987)).

## III. Discussion

### A. Defendants Have Complied With the Requirements of Article 3(d) of the Hague Evidence Convention

Defendants’ motion is made in conformity with the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, 23 U.S.T. 2555, T.I.A.S. No. 7444, *reproduced in* 28 U.S.C.A. following § 1781 (“the Hague Evidence Convention”). Pursuant to the Hague Evidence Convention, a Letter of Request for International Judicial Assistance (“Letter of Request”) must provide the contracting state with certain information regarding the lawsuit and the information sought. Article 3(d) states that a Letter of Request shall briefly specify the evidence to be obtained or other judicial act to be performed. Hague Evidence Convention, 23 U.S.T. 2555, Art. 3(d) (1972); *Abbott Labs. v. Impax Labs., Inc.*, No. 03-120-KAJ, at \*2-\*3 (D. Del. Jul. 15, 2004). The attached Letters of Request do just that.

The attached Letters of Request set forth the topics to be covered in the requested depositions. Through discovery obtained to date, Defendants have learned that Mr. Hansen is a former employee of Plaintiff and a patent attorney who was substantively involved in the

prosecution of the patent application that issued as the '408 patent, as well as related patent applications. Defendants have also learned through discovery that Messrs. Jensen and Jensen, named inventors on the '408 patent, worked as industrial designers on the invention claimed in the '408 patent. Additionally, Defendants have learned through discovery that Mr. Munk, a named inventor on the '408 patent and a former employee of Plaintiff, worked as a mechanical engineer on the invention claimed in the '408 patent. Accordingly, the topics to be covered in the depositions of these four individuals include the prosecution of the application that issued as the '408 patent (in the case of Mr. Hansen) and the subject matter described or claimed in the '408 patent (in the case of Messrs. Jensen, Jensen, and Munk). Therefore, Defendants have complied with Article 3(d) of the Hague Evidence Convention for issuance of Letters of Request.

**B. The Letters of Request Are Necessary to Obtain Relevant Discovery and Trial Evidence**

This Court has determined that application of the Hague Evidence Convention is appropriate when the witnesses are not parties to the lawsuit, have not voluntarily subjected themselves to discovery, are citizens of a foreign country, and are not otherwise subject to the jurisdiction of the court. *Tulip Computers*, 254 F.Supp.2d at 474; *Abbott Labs.*, 2004 WL 1622223 at \*2. Each of these conditions is true in this case. Messrs. Hansen, Jensen, Jensen and Munk are not parties to this lawsuit, each resides in Denmark, and, though counsel for Plaintiff has demanded that any communications with these individuals go through them, counsel for Plaintiff has refused to accept notices of deposition or subpoenas on their behalf.

Moreover, this Court has previously issued Letters of Request to allow defendants in patent infringement cases to seek the deposition testimony of named inventors and persons substantively involved in the prosecution of the patent-in-suit. *See, e.g., Tulip Computers*, 254 F.Supp.2d at 473 (granting Letters of Request seeking deposition testimony of a person "who

participated in R & D activities that may be directly relevant to [defendant's] defenses" and a person who "had knowledge of and participated in patent procurement activities that may be directly relevant to [defendant's] defenses"). *See also Abbott Labs.*, 2004 WL 1622223 at \*3 (granting Letters of Request because defendant's desire to depose witnesses "who were intimately involved in prosecution of the patents-in-suit is par for the course in any patent litigation").

In this case, the testimony sought by the attached Letters of Request is important to Defendants' ability to assert their noninfringement, invalidity, and unenforceability defenses and counterclaims. For example, as a patent attorney who was substantively involved in the prosecution of the patent application that issued as the '408 patent, Mr. Hansen possesses information regarding the materiality of prior art references withheld from the Patent Office as well as Plaintiff's intent to deceive the Patent Office. As named inventors on the '408 patent, Messrs. Jensen, Jensen, and Munk possess information regarding the invention claimed in the '408 patent, as well as the scope and content of the prior art, the level of ordinary skill in the art, and the differences between the prior art and the claimed invention. Additionally, each of the four individuals' names appears on numerous relevant documents produced by Plaintiff in this litigation, and Defendants need to question the individuals about those documents.

#### **IV. Conclusion**

In view of the foregoing, Defendants respectfully request that this Court issue the attached Letters of Request and that the executed Letters be returned to counsel for Defendants for delivery to the proper authority.

ASHBY & GEDDES

*/s/ Lauren E. Maguire*

---

Steven J. Balick (I.D. #2114)  
John G. Day (I.D. #2403)  
Lauren E. Maguire (I.D. #4261)  
222 Delaware Avenue, 17<sup>th</sup> Floor  
P.O. Box 1150  
Wilmington, DE 19899  
302-654-1888  
[sbalick@ashby-geddes.com](mailto:sbalick@ashby-geddes.com)  
[jday@ashby-geddes.com](mailto:jday@ashby-geddes.com)  
[lmaguire@ashby-geddes.com](mailto:lmaguire@ashby-geddes.com)

*Attorneys for Defendants*

Of Counsel:

Paul H. Berghoff  
Curt J. Whitenack  
Thomas E. Wettermann  
Eric R. Moran  
McDONNELL BOEHNEN  
HULBERT & BERGHOFF LLP  
300 South Wacker Drive  
Chicago, Illinois 60606  
Tel: (312) 913-0001  
Fax: (312) 913-0002

Dated: November 17, 2006  
175283.1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVO NORDISK A/S,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-645-SLR
	)	
SANOFI-AVENTIS, AVENTIS	)	
PHARMACEUTICALS INC., and AVENTIS	)	
PHARMA DEUTSCHLAND GMBH,	)	
	)	
Defendants.	)	

**ORDER**

This matter comes before the Court upon Defendants' Motion to Issue Letters of Request for International Judicial Assistance. Having reviewed the notice, and being fully advised in the premises, the Court grants Defendants' application for Letters of Request for International Judicial Assistance, requesting assistance from the appropriate judicial authority of Denmark to take the depositions of Messrs. Einar Tronier Hansen, Jens Møller Jensen, Peter Møller Jensen, and Benny Munk. The executed Letters of Request with the Seal of the Court are attached. Defendants shall forward the Letters of Request and any and all necessary translations and copies to the appropriate authorities.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
United States District Judge

# **EXHIBIT 1**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVO NORDISK A/S,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-645-SLR
	)	
SANOFI-AVENTIS, AVENTIS	)	
PHARMACEUTICALS INC., and AVENTIS	)	
PHARMA DEUTSCHLAND GMBH,	)	
	)	
Defendants.	)	

**LETTER OF REQUEST FOR INTERNATIONAL  
JUDICIAL ASSISTANCE (EINAR TRONIER HANSEN)**

I.

- |    |  |   |
|----|--|---|
| 1. | Sender:  | United States District Court<br>District of Delaware<br>J. Caleb Boggs Federal Building<br>844 N. King Street<br>Wilmington, DE 19801<br>United States of America   |
| 2. | Central Authority<br>of the Requested State:                 | Danish Ministry of Justice<br>Slotsholmsgade 10<br>1216 Copenhagen K<br>Denmark<br>Tel: 45-3392-3340  |
| 3. | Person to whom the<br>executed request is<br>to be returned: | Steven J. Balick (DE Bar No. 2114)<br>John G. Day (DE Bar No. 2403)<br>Lauren E. Maguire (DE Bar No. 4261)<br>ASHBY & GEDDES, P.A.<br>222 Delaware Avenue, 17 <sup>th</sup> Floor<br>P.O. Box 1150<br>Wilmington, Delaware 19899<br>Tel: (302) 654-1888 |

II.

4 & In conformity with Article 3 of the Hague Convention on the Taking of Evidence  
5. Abroad in Civil or Commercial Matters, the United States District Court for the District of Delaware, J. Caleb Boggs Federal Building, 844 N. King Street, Wilmington, Delaware 19801 presents its compliments to the Danish Ministry of Justice, Slotsholmsgade 10, 1216 Copenhagen K, Denmark and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in the above-captioned matter.

6. The parties to this action and their respective representatives are:

**Plaintiff:**

Novo Nordisk A/S  
Novo Allé  
DK-2880 Bagsværd  
Denmark

**Representatives of Plaintiff:**

Frederick L. Cottrell III  
Anne Shea Gaza  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
P.O. Box 551  
Wilmington, Delaware 19899

Jeffrey J. Oelke  
Scott T. Weingaertner  
WHITE & CASE LLP  
1155 Avenue of the Americas  
New York, NY 10036-2787

**Defendants:**

Sanofi-Aventis  
174/180 Avenue de France  
Paris Cedex 75013  
France

Aventis Pharmaceuticals Inc.  
300 Somerset Corporate Blvd.  
Bridgewater, NJ 08807-2854  
United States of America

Aventis Pharma Deutschland GmbH  
Kommunikation Deutschland

Gebäude F821  
Industriepark Hösch  
65926 Frankfurt  
Germany

**Representatives of Defendants:**

Steven J. Balick  
John G. Day  
Lauren E. Maguire  
ASHBY & GEDDES, P.A.  
222 Delaware Avenue, 17th Floor  
P.O. Box 1150  
Wilmington, Delaware 19899

Paul H. Berghoff  
Curt Whitenack  
Thomas E. Wettermann  
Eric R. Moran  
MCDONNELL BOEHNEN HULBERT &  
BERGHOFF, LLP  
300 S. Wacker Drive  
Chicago, Illinois 60606

7. This is an action brought by Novo Nordisk A/S (“Novo”) against Sanofi-Aventis, Aventis Pharmaceuticals Inc., and Aventis Pharma Deutschland GmbH (“Aventis”) under the patent laws of the United States, Title 35 of the United States Code, seeking monetary damages and an injunction for alleged infringement of United States Patent No. 6,582,408 (“the ‘408 patent”). Novo is the assignee of the ‘408 patent. Aventis denies that it has infringed the ‘408 patent and asserts that the ‘408 patent is invalid and unenforceable.

Mr. Einar Tronier Hansen is a patent attorney and a former employee of Novo who performed a substantial amount of work relating to the patent application that issued as the ‘408 patent, as well as related patent applications. Mr. Hansen’s name also appears on numerous documents produced by Novo in this litigation. Therefore, Mr. Hansen has important information and evidence for submission at trial.

8. This Court requests that the Central Authority forward this request to the appropriate judicial authority to compel the appearance of the below-named individual to give evidence under oath concerning his work relating to the ‘408 patent. This assistance is necessary in the interests of justice.

III.

9. Identity and address of person to be examined: Mr. Einar Tronier Hansen  
Tvingsager 24  
DK-2650 Hvidovre  
Denmark
10. Subject matter about which the person is to be examined: Mr. Hansen's work relating to the patent application that issued as the '408 patent and related patent applications, including: the drafting and prosecution of such patent applications; his knowledge of material prior art relevant to such patent applications; Novo's strategy relating to filing such patent applications; the meaning of terminology used in the '408 patent and related patents; the validity and enforceability of the '408 patent.
11. Documents to be produced: None
12. Any requirement that the evidence be given under oath or affirmation and any special form to be used: All evidence shall be given under oath in accordance with Denmark law.
13. Special methods or procedures to be followed: For the benefit of all parties, it is respectfully requested by the below signed authority that the date for the deposition of Mr. Hansen be scheduled as close as possible to January 12, 2007. This deposition is not expected to exceed a single eight-hour day.

This Court requests that the appropriate authority in Denmark provide to this Court as soon as convenient all information regarding the scheduled date, time and place for the oral deposition of Mr. Hansen, with any other pertinent information, including what authority has been appointed to preside over the deposition.

It is requested that, if possible, the deposition be reduced to verbatim written transcript, with all associated costs to be paid by Defendants. If it is not possible to create a verbatim written transcript, it is requested that the standard and usual record of the deposition be reduced to written transcript.

It is requested that permission be granted to have the judicial authorities of Denmark appoint an English/Danish language interpreter to be present at the scheduled deposition and translate testimony at the time it is given and that all testimony reduced to written transcript also be recorded in English.

It is requested that any written deposition transcript, with any and all exhibits and documents produced, be marked, attested, properly sealed and returned through appropriate diplomatic channels to the Honorable Sue L. Robinson, c/o Clerk of the United States District Court for the District of Delaware, United States District Court, J. Caleb Boggs Federal Building, 844 N. King Street, Room 6124, Wilmington, Delaware 19801.

- |     |   |   |
|-----|---|---|
| 14. | Request for notification of the time and place of the Request and identity and address of any person to be notified:                                | Please notify all Representatives identified in Paragraph 6 above.  |
| 15. | Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request:                | Defendants' attorneys request, under authorization of this Court, permission to attend and participate in the oral deposition of Mr. Hansen. If permission to attend and participate is granted, it is requested that Mr. Steven J. Balick be provided with the date, time and place of the deposition as soon as convenient. |
| 16. | Specification of privilege or duty to refuse to give evidence under the law of the State of origin:   | None  |
| 17. | The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under article 26 of the Convention will be borne by: | McDonnell Boehnen Hulbert & Berghoff,<br>LLP<br>300 South Wacker Drive<br>Suite 3100<br>Chicago, Illinois 60606   |
| 18. | Date of Request:  | November 10, 2006   |

19. Signature and seal of the requesting  
Authority:

By the Court:

---

Honorable Sue L. Robinson, U.S.D.J.  
c/o Clerk of the United States District Court  
for the District of Delaware  
United States District Court  
J. Caleb Boggs Federal Building  
844 N. King Street  
Room 6124  
Wilmington, Delaware 19801

[Seal of Court]

# **EXHIBIT 2**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVO NORDISK A/S,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-645-SLR
	)	
SANOFI-AVENTIS, AVENTIS	)	
PHARMACEUTICALS INC., and AVENTIS	)	
PHARMA DEUTSCHLAND GMBH,	)	
	)	
Defendants.	)	

**LETTER OF REQUEST FOR INTERNATIONAL  
JUDICIAL ASSISTANCE (JENS MØLLER JENSEN)**

I.

- |    |  |   |
|----|--|---|
| 1. | Sender:  | United States District Court<br>District of Delaware<br>J. Caleb Boggs Federal Building<br>844 N. King Street<br>Wilmington, DE 19801<br>United States of America   |
| 2. | Central Authority<br>of the Requested State:                 | Danish Ministry of Justice<br>Slotsholmsgade 10<br>1216 Copenhagen K<br>Denmark<br>Tel: 45-3392-3340  |
| 3. | Person to whom the<br>executed request is<br>to be returned: | Steven J. Balick (DE Bar No. 2114)<br>John G. Day (DE Bar No. 2403)<br>Lauren E. Maguire (DE Bar No. 4261)<br>ASHBY & GEDDES, P.A.<br>222 Delaware Avenue, 17 <sup>th</sup> Floor<br>P.O. Box 1150<br>Wilmington, Delaware 19899<br>Tel: (302) 654-1888 |



II.

- 4 & In conformity with Article 3 of the Hague Convention on the Taking of Evidence  
5. Abroad in Civil or Commercial Matters, the United States District Court for the District of Delaware, J. Caleb Boggs Federal Building, 844 N. King Street, Wilmington, Delaware 19801 presents its compliments to the Danish Ministry of Justice, Slotsholmsgade 10, 1216 Copenhagen K, Denmark and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in the above-captioned matter.

6. The parties to this action and their respective representatives are:

**Plaintiff:**

Novo Nordisk A/S  
Novo Allé  
DK-2880 Bagsværd  
Denmark

**Representatives of Plaintiff:**

Frederick L. Cottrell III  
Anne Shea Gaza  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
P.O. Box 551  
Wilmington, Delaware 19899

Jeffrey J. Oelke  
Scott T. Weingaertner  
WHITE & CASE LLP  
1155 Avenue of the Americas  
New York, NY 10036-2787

**Defendants:**

Sanofi-Aventis  
174/180 Avenue de France  
Paris Cedex 75013  
France

Aventis Pharmaceuticals Inc.  
300 Somerset Corporate Blvd.  
Bridgewater, NJ 08807-2854  
United States of America

Aventis Pharma Deutschland GmbH  
Kommunikation Deutschland

Gebäude F821  
Industriepark Hösch  
65926 Frankfurt  
Germany

**Representatives of Defendants:**

Steven J. Balick  
John G. Day  
Lauren E. Maguire  
ASHBY & GEDDES, P.A.  
222 Delaware Avenue, 17th Floor  
P.O. Box 1150  
Wilmington, Delaware 19899

Paul H. Berghoff  
Curt Whitenack  
Thomas E. Wettermann  
Eric R. Moran  
MCDONNELL BOEHNEN HULBERT &  
BERGHOFF, LLP  
300 S. Wacker Drive  
Chicago, Illinois 60606

7. This is an action brought by Novo Nordisk A/S (“Novo”) against Sanofi-Aventis, Aventis Pharmaceuticals Inc., and Aventis Pharma Deutschland GmbH (“Aventis”) under the patent laws of the United States, Title 35 of the United States Code, seeking monetary damages and an injunction for alleged infringement of United States Patent No. 6,582,408 (“the ‘408 patent”). Novo is the assignee of the ‘408 patent. Aventis denies that it has infringed the ‘408 patent and asserts that the ‘408 patent is invalid and unenforceable.

Mr. Jens Møller Jensen is one of the inventors named on the ‘408 patent. Mr. Jensen is an industrial designer who made significant contributions to the invention claimed in the ‘408 patent. Mr. Jensen’s name also appears on numerous documents produced by Novo in this litigation. Therefore, Mr. Jensen has important information and evidence for submission at trial.

8. This Court requests that the Central Authority forward this request to the appropriate judicial authority to compel the appearance of the below-named individual to give evidence under oath concerning his work relating to the ‘408 patent. This assistance is necessary in the interests of justice.

III.

- |     |   |  |
|-----|---|--|
| 9.  | Identity and address of person to be examined:  | Mr. Jens Møller Jensen<br>Nyhavn 39<br>DK-1051<br>København K<br>Denmark   |
| 10. | Subject matter about which the person is to be examined:  | Mr. Jensen's work relating to the invention claimed in the '408 patent and his knowledge of the subject matter described in the '408 patent, including: his specific contribution to the invention claimed in the '408 patent; the conception and reduction to practice of the invention claimed in the '408 patent; the best mode of practicing the invention claimed in the '408 patent; the sufficiency of the disclosure in the '408 patent; his knowledge of material prior art relevant to the '408 patent; the meaning of terminology used in the '408 patent and related patents; the validity and enforceability of the '408 patent.  |
| 11. | Documents to be produced:   | None   |
| 12. | Any requirement that the evidence be given under oath or affirmation and any special form to be used: | All evidence shall be given under oath in accordance with Denmark law.   |
| 13. | Special methods or procedures to be followed:   | <p>For the benefit of all parties, it is respectfully requested by the below signed authority that the date for the deposition of Mr. Jensen be scheduled as close as possible to January 10, 2007. This deposition is not expected to exceed a single eight-hour day.</p> <p>This Court requests that the appropriate authority in Denmark provide to this Court as soon as convenient all information regarding the scheduled date, time and place for the oral deposition of Mr. Jensen, with any other pertinent information, including what authority has been appointed to preside over the deposition.</p> <p>It is requested that, if possible, the deposition be reduced to verbatim written transcript, with</p> |

all associated costs to be paid by Defendants. If it is not possible to create a verbatim written transcript, it is requested that the standard and usual record of the deposition be reduced to written transcript.

It is requested that permission be granted to have the judicial authorities of Denmark appoint an English/Danish language interpreter to be present at the scheduled deposition and translate testimony at the time it is given and that all testimony reduced to written transcript also be recorded in English.

It is requested that any written deposition transcript, with any and all exhibits and documents produced, be marked, attested, properly sealed and returned through appropriate diplomatic channels to the Honorable Sue L. Robinson, c/o Clerk of the United States District Court for the District of Delaware, United States District Court, J. Caleb Boggs Federal Building, 844 N. King Street, Room 6124, Wilmington, Delaware 19801.

- |     |  |   |
|-----|--|---|
| 14. | Request for notification of the time and place of the Request and identity and address of any person to be notified:                 | Please notify all Representatives identified in Paragraph 6 above.  |
| 15. | Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request: | Defendants' attorneys request, under authorization of this Court, permission to attend and participate in the oral deposition of Mr. Jensen. If permission to attend and participate is granted, it is requested that Mr. Steven J. Balick be provided with the date, time and place of the deposition as soon as convenient. |
| 16. | Specification of privilege or duty to refuse to give evidence under the law of the State of origin:                                  | None  |
| 17. | The fees and costs incurred which are reimbursable under the second  | McDonnell Boehnen Hulbert & Berghoff, LLP   |

paragraph of Article 14 or under  
article 26 of the Convention will be  
borne by:

300 South Wacker Drive  
Suite 3100  
Chicago, Illinois 60606

18. Date of Request: November 10, 2006

19. Signature and seal of the requesting  
Authority: By the Court:

---

Honorable Sue L. Robinson, U.S.D.J.  
c/o Clerk of the United States District Court  
for the District of Delaware  
United States District Court  
J. Caleb Boggs Federal Building  
844 N. King Street  
Room 6124  
Wilmington, Delaware 19801

[Seal of Court]

# EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVO NORDISK A/S,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-645-SLR
	)	
SANOFI-AVENTIS, AVENTIS	)	
PHARMACEUTICALS INC., and AVENTIS	)	
PHARMA DEUTSCHLAND GMBH,	)	
	)	
Defendants.	)	

**LETTER OF REQUEST FOR INTERNATIONAL  
JUDICIAL ASSISTANCE (PETER MØLLER JENSEN)**

I.

- |    |  |   |
|----|--|---|
| 1. | Sender:  | United States District Court<br>District of Delaware<br>J. Caleb Boggs Federal Building<br>844 N. King Street<br>Wilmington, DE 19801<br>United States of America   |
| 2. | Central Authority<br>of the Requested State:                 | Danish Ministry of Justice<br>Slotsholmsgade 10<br>1216 Copenhagen K<br>Denmark<br>Tel: 45-3392-3340  |
| 3. | Person to whom the<br>executed request is<br>to be returned: | Steven J. Balick (DE Bar No. 2114)<br>John G. Day (DE Bar No. 2403)<br>Lauren E. Maguire (DE Bar No. 4261)<br>ASHBY & GEDDES, P.A.<br>222 Delaware Avenue, 17 <sup>th</sup> Floor<br>P.O. Box 1150<br>Wilmington, Delaware 19899<br>Tel: (302) 654-1888 |

II.

- 4 & In conformity with Article 3 of the Hague Convention on the Taking of Evidence  
5. Abroad in Civil or Commercial Matters, the United States District Court for the District of Delaware, J. Caleb Boggs Federal Building, 844 N. King Street, Wilmington, Delaware 19801 presents its compliments to the Danish Ministry of Justice, Slotsholmsgade 10, 1216 Copenhagen K, Denmark and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in the above-captioned matter.

6. The parties to this action and their respective representatives are:

**Plaintiff:**

Novo Nordisk A/S  
Novo Allé  
DK-2880 Bagsværd  
Denmark

**Representatives of Plaintiff:**

Frederick L. Cottrell III  
Anne Shea Gaza  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
P.O. Box 551  
Wilmington, Delaware 19899

Jeffrey J. Oelke  
Scott T. Weingaertner  
WHITE & CASE LLP  
1155 Avenue of the Americas  
New York, NY 10036-2787

**Defendants:**

Sanofi-Aventis  
174/180 Avenue de France  
Paris Cedex 75013  
France

Aventis Pharmaceuticals Inc.  
300 Somerset Corporate Blvd.  
Bridgewater, NJ 08807-2854  
United States of America

Aventis Pharma Deutschland GmbH  
Kommunikation Deutschland



Gebäude F821  
Industriepark Hösch  
65926 Frankfurt  
Germany

**Representatives of Defendants:**

Steven J. Balick  
John G. Day  
Lauren E. Maguire  
ASHBY & GEDDES, P.A.  
222 Delaware Avenue, 17th Floor  
P.O. Box 1150  
Wilmington, Delaware 19899

Paul H. Berghoff  
Curt Whitenack  
Thomas E. Wettermann  
Eric R. Moran  
MCDONNELL BOEHNEN HULBERT &  
BERGHOFF, LLP  
300 S. Wacker Drive  
Chicago, Illinois 60606

7. This is an action brought by Novo Nordisk A/S (“Novo”) against Sanofi-Aventis, Aventis Pharmaceuticals Inc., and Aventis Pharma Deutschland GmbH (“Aventis”) under the patent laws of the United States, Title 35 of the United States Code, seeking monetary damages and an injunction for alleged infringement of United States Patent No. 6,582,408 (“the ‘408 patent”). Novo is the assignee of the ‘408 patent. Aventis denies that it has infringed the ‘408 patent and asserts that the ‘408 patent is invalid and unenforceable.

Mr. Peter Møller Jensen is one of the inventors named on the ‘408 patent. Mr. Jensen is an industrial designer who made significant contributions to the invention claimed in the ‘408 patent. Mr. Jensen’s name also appears on numerous documents produced by Novo in this litigation. Therefore, Mr. Jensen has important information and evidence for submission at trial.

8. This Court requests that the Central Authority forward this request to the appropriate judicial authority to compel the appearance of the below-named individual to give evidence under oath concerning his work relating to the ‘408 patent. This assistance is necessary in the interests of justice.

III.

- |     |   |  |
|-----|---|--|
| 9.  | Identity and address of person to be examined:  | Mr. Peter Møller Jensen<br>Nyhavn 39<br>DK-1051<br>København K<br>Denmark  |
| 10. | Subject matter about which the person is to be examined:  | Mr. Jensen's work relating to the invention claimed in the '408 patent and his knowledge of the subject matter described in the '408 patent, including: his specific contribution to the invention claimed in the '408 patent; the conception and reduction to practice of the invention claimed in the '408 patent; the best mode of practicing the invention claimed in the '408 patent; the sufficiency of the disclosure in the '408 patent; his knowledge of material prior art relevant to the '408 patent; the meaning of terminology used in the '408 patent and related patents; the validity and enforceability of the '408 patent.  |
| 11. | Documents to be produced:   | None   |
| 12. | Any requirement that the evidence be given under oath or affirmation and any special form to be used: | All evidence shall be given under oath in accordance with Denmark law.   |
| 13. | Special methods or procedures to be followed:   | <p>For the benefit of all parties, it is respectfully requested by the below signed authority that the date for the deposition of Mr. Jensen be scheduled as close as possible to January 10, 2007. This deposition is not expected to exceed a single eight-hour day.</p> <p>This Court requests that the appropriate authority in Denmark provide to this Court as soon as convenient all information regarding the scheduled date, time and place for the oral deposition of Mr. Jensen, with any other pertinent information, including what authority has been appointed to preside over the deposition.</p> <p>It is requested that, if possible, the deposition be reduced to verbatim written transcript, with</p> |

all associated costs to be paid by Defendants. If it is not possible to create a verbatim written transcript, it is requested that the standard and usual record of the deposition be reduced to written transcript.

It is requested that permission be granted to have the judicial authorities of Denmark appoint an English/Danish language interpreter to be present at the scheduled deposition and translate testimony at the time it is given and that all testimony reduced to written transcript also be recorded in English.

It is requested that any written deposition transcript, with any and all exhibits and documents produced, be marked, attested, properly sealed and returned through appropriate diplomatic channels to the Honorable Sue L. Robinson, c/o Clerk of the United States District Court for the District of Delaware, United States District Court, J. Caleb Boggs Federal Building, 844 N. King Street, Room 6124, Wilmington, Delaware 19801.

- |     |  |   |
|-----|--|---|
| 14. | Request for notification of the time and place of the Request and identity and address of any person to be notified:                 | Please notify all Representatives identified in Paragraph 6 above.  |
| 15. | Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request: | Defendants' attorneys request, under authorization of this Court, permission to attend and participate in the oral deposition of Mr. Jensen. If permission to attend and participate is granted, it is requested that Mr. Steven J. Balick be provided with the date, time and place of the deposition as soon as convenient. |
| 16. | Specification of privilege or duty to refuse to give evidence under the law of the State of origin:                                  | None  |
| 17. | The fees and costs incurred which are reimbursable under the second  | McDonnell Boehnen Hulbert & Berghoff, LLP   |

paragraph of Article 14 or under  
article 26 of the Convention will be  
borne by:

300 South Wacker Drive  
Suite 3100  
Chicago, Illinois 60606

18. Date of Request: November 10, 2006

19. Signature and seal of the requesting  
Authority: By the Court:

---

Honorable Sue L. Robinson, U.S.D.J.  
c/o Clerk of the United States District Court  
for the District of Delaware  
United States District Court  
J. Caleb Boggs Federal Building  
844 N. King Street  
Room 6124  
Wilmington, Delaware 19801

[Seal of Court]

# **EXHIBIT 4**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NOVO NORDISK A/S,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-645-SLR
	)	
SANOFI-AVENTIS, AVENTIS	)	
PHARMACEUTICALS INC., and AVENTIS	)	
PHARMA DEUTSCHLAND GMBH,	)	
	)	
Defendants.	)	

**LETTER OF REQUEST FOR INTERNATIONAL  
JUDICIAL ASSISTANCE (BENNY MUNK)**

**I.**

- |    |  |   |
|----|--|---|
| 1. | Sender:  | United States District Court<br>District of Delaware<br>J. Caleb Boggs Federal Building<br>844 N. King Street<br>Wilmington, DE 19801<br>United States of America   |
| 2. | Central Authority<br>of the Requested State:                 | Danish Ministry of Justice<br>Slotsholmsgade 10<br>1216 Copenhagen K<br>Denmark<br>Tel: 45-3392-3340  |
| 3. | Person to whom the<br>executed request is<br>to be returned: | Steven J. Balick (DE Bar No. 2114)<br>John G. Day (DE Bar No. 2403)<br>Lauren E. Maguire (DE Bar No. 4261)<br>ASHBY & GEDDES, P.A.<br>222 Delaware Avenue, 17 <sup>th</sup> Floor<br>P.O. Box 1150<br>Wilmington, Delaware 19899<br>Tel: (302) 654-1888 |

II.

- 4 & In conformity with Article 3 of the Hague Convention on the Taking of Evidence  
5. Abroad in Civil or Commercial Matters, the United States District Court for the District of Delaware, J. Caleb Boggs Federal Building, 844 N. King Street, Wilmington, Delaware 19801 presents its compliments to the Danish Ministry of Justice, Slotsholmsgade 10, 1216 Copenhagen K, Denmark and requests international judicial assistance to obtain evidence to be used in a civil proceeding before this Court in the above-captioned matter.

6. The parties to this action and their respective representatives are:

**Plaintiff:**

Novo Nordisk A/S  
Novo Allé  
DK-2880 Bagsværd  
Denmark

**Representatives of Plaintiff:**

Frederick L. Cottrell III  
Anne Shea Gaza  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
P.O. Box 551  
Wilmington, Delaware 19899

Jeffrey J. Oelke  
Scott T. Weingaertner  
WHITE & CASE LLP  
1155 Avenue of the Americas  
New York, NY 10036-2787

**Defendants:**

Sanofi-Aventis  
174/180 Avenue de France  
Paris Cedex 75013  
France

Aventis Pharmaceuticals Inc.  
300 Somerset Corporate Blvd.  
Bridgewater, NJ 08807-2854  
United States of America

Aventis Pharma Deutschland GmbH  
Kommunikation Deutschland

Gebäude F821  
Industriepark Hösch  
65926 Frankfurt  
Germany

**Representatives of Defendants:**

Steven J. Balick  
John G. Day  
Lauren E. Maguire  
ASHBY & GEDDES, P.A.  
222 Delaware Avenue, 17th Floor  
P.O. Box 1150  
Wilmington, Delaware 19899

Paul H. Berghoff  
Curt Whitenack  
Thomas E. Wettermann  
Eric R. Moran  
MCDONNELL BOEHNEN HULBERT &  
BERGHOFF, LLP  
300 S. Wacker Drive  
Chicago, Illinois 60606

7. This is an action brought by Novo Nordisk A/S (“Novo”) against Sanofi-Aventis, Aventis Pharmaceuticals Inc., and Aventis Pharma Deutschland GmbH (“Aventis”) under the patent laws of the United States, Title 35 of the United States Code, seeking monetary damages and an injunction for alleged infringement of United States Patent No. 6,582,408 (“the ‘408 patent”). Novo is the assignee of the ‘408 patent. Aventis denies that it has infringed the ‘408 patent and asserts that the ‘408 patent is invalid and unenforceable.

Mr. Benny Munk is one of the inventors named on the ‘408 patent and a former employee of Novo. Mr. Munk is a mechanical engineer who made significant contributions to the invention claimed in the ‘408 patent. Mr. Munk’s name also appears on numerous documents produced by Novo in this litigation. Therefore, Mr. Munk has important information and evidence for submission at trial.

8. This Court requests that the Central Authority forward this request to the appropriate judicial authority to compel the appearance of the below-named individual to give evidence under oath concerning his work relating to the ‘408 patent. This assistance is necessary in the interests of justice.



III.

9. Identity and address of person to be examined: Mr. Benny Munk  
Bjaeverskov Alle 52  
DK-2650 Hvidovre  
Denmark
10. Subject matter about which the person is to be examined: Mr. Munk's work relating to the invention claimed in the '408 patent and his knowledge of the subject matter described in the '408 patent, including: his specific contribution to the invention claimed in the '408 patent; the conception and reduction to practice of the invention claimed in the '408 patent; the best mode of practicing the invention claimed in the '408 patent; the sufficiency of the disclosure in the '408 patent; his knowledge of material prior art relevant to the '408 patent; the meaning of terminology used in the '408 patent and related patents; the validity and enforceability of the '408 patent.
11. Documents to be produced: None
12. Any requirement that the evidence be given under oath or affirmation and any special form to be used: All evidence shall be given under oath in accordance with Denmark law.
13. Special methods or procedures to be followed: For the benefit of all parties, it is respectfully requested by the below signed authority that the date for the deposition of Mr. Munk be scheduled as close as possible to January 9, 2007. This deposition is not expected to exceed a single eight-hour day.  
  
This Court requests that the appropriate authority in Denmark provide to this Court as soon as convenient all information regarding the scheduled date, time and place for the oral deposition of Mr. Munk, with any other pertinent information, including what authority has been appointed to preside over the deposition.  
  
It is requested that, if possible, the deposition be reduced to verbatim written transcript, with all associated costs to be paid by Defendants.

If it is not possible to create a verbatim written transcript, it is requested that the standard and usual record of the deposition be reduced to written transcript.

It is requested that permission be granted to have the judicial authorities of Denmark appoint an English/Danish language interpreter to be present at the scheduled deposition and translate testimony at the time it is given and that all testimony reduced to written transcript also be recorded in English.

It is requested that any written deposition transcript, with any and all exhibits and documents produced, be marked, attested, properly sealed and returned through appropriate diplomatic channels to the Honorable Sue L. Robinson, c/o Clerk of the United States District Court for the District of Delaware, United States District Court, J. Caleb Boggs Federal Building, 844 N. King Street, Room 6124, Wilmington, Delaware 19801.

- |     |  |   |
|-----|--|---|
| 14. | Request for notification of the time and place of the Request and identity and address of any person to be notified:                 | Please notify all Representatives identified in Paragraph 6 above.  |
| 15. | Request for attendance or participation of judicial personnel of the requesting authority at the execution of the Letter of Request: | Defendants' attorneys request, under authorization of this Court, permission to attend and participate in the oral deposition of Mr. Munk. If permission to attend and participate is granted, it is requested that Mr. Steven J. Balick be provided with the date, time and place of the deposition as soon as convenient. |
| 16. | Specification of privilege or duty to refuse to give evidence under the law of the State of origin:                                  | None  |
| 17. | The fees and costs incurred which are reimbursable under the second paragraph of Article 14 or under                                 | McDonnell Boehnen Hulbert & Berghoff,<br>LLP<br>300 South Wacker Drive  |

article 26 of the Convention will be  
borne by:

Suite 3100  
Chicago, Illinois 60606

18. Date of Request: November 10, 2006

19. Signature and seal of the requesting  
Authority:

By the Court:

---

Honorable Sue L. Robinson, U.S.D.J.  
c/o Clerk of the United States District Court  
for the District of Delaware  
United States District Court  
J. Caleb Boggs Federal Building  
844 N. King Street  
Room 6124  
Wilmington, Delaware 19801

[Seal of Court]

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of November, 2006, the attached **DEFENDANTS'**  
**AMENDED UNOPPOSED MOTION TO ISSUE LETTERS OF REQUEST FOR**  
**INTERNATIONAL JUDICIAL ASSISTANCE** was served upon the below-named counsel of  
record at the address and in the manner indicated:

Frederick L. Cottrell, III, Esquire  
Richards, Layton & Finger, P.A.  
One Rodney Square  
P.O. Box 551  
Wilmington, DE 19899

HAND DELIVERY

Jeffrey J. Oelke, Esquire  
White & Case LLP  
1155 Avenue of the Americas  
New York, NY 10036-2787

VIA ELECTRONIC MAIL

*/s/ Lauren E. Maguire*

---

Lauren E. Maguire